



# Recast researchers and students Directives (Directive (EU) 2016/81)

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# Introduction

Existing instruments:

- Students – Directive 2004/114/EC
- Researchers – Directive 2005/71/EC

These remain valid until May 2018!

Ireland applies Directive 2005/71/EC, but most likely not the new Directive.

Denmark: opt-out



# Proposal to reform Students and Researchers Directives (March 2013)

Rationale: Make the EU more attractive for talented/highly-skilled third-country nationals (in particular researchers and students), by

- facilitating their admission to the EU
- improving their rights during their stay, and
- increasing retention rates.

Final adoption and subsequent publication in the Official Journal: May 2016: Directive (EU) 2016/801

# What happens between now and May 2018?

- Existing Directives continue to apply.
- Commission continues to monitor MSs' application of the existing rules.
- Commission supports Member States in preparing the transposition of the new rules into national law (deadline May 2018).



# What does the new Directive regulate?

- Conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing
- Having different categories in one instrument does not make any difference to the individual groups concerned (transposition into national law of Member States)
- For stays above 90 days

# Main improvements relevant for TCN researchers

- Procedures (incl approval procedures for research organizations)
- Authorisations (permits, long-stay visa and entry visa)
- Rights (incl intra-EU mobility, family reunification, access to job-seeking)



# Approval procedures for research organizations

- Member States may decide to provide or not for an approval procedure for research organisations to host TCNs (to give MSs more flexibility).
- Research organizations can be public or private (as is the case now).
- The approval procedure itself follows national law or administrative practice of the Member State concerned.
- With approval procedure, facilitated and quicker procedure for the applicant!



# Application procedure

- Admission conditions for the individual remain essentially unchanged.
- Processing time of application: maximum of 90 days (60 days if approved host entity); (new) in Directive 2005/71, no deadlines indicated!
- Member States must fix in national law who the application should come from (researcher, research organisation, or joint)





# Permits, long-stay visa and visa

Existing Directive: Permits only, "facility" to obtain requisite visa (for entry)

New Directive:

- Permits and long-stay visa possible (long-stay visa for one year max., in case of renewal a permit has to be given).
- The rights granted during the stay must be the same under a long-stay visa as they are for permits.
- Once the conditions to get the permit/long-stay visa are fulfilled, MS shall grant entry visa
- Duration: For researchers under programmes or agreements, at least 2 years



# Rights: Family reunification for researchers' family members

Existing Dir.: No mandatory provisions, although in practice many MSs allowed family reunification

New Directive:

- Immediate family reunification for family members of TCN researchers
- Access to the labour market
- Intra-EU mobility

# Rights: Intra-EU mobility

Existing Dir.: Up to three months on basis of hosting agreement

New Directive:

- mobility for up to 6 months per Member State: no procedure or notification procedure
- mobility for more than 6 months per Member State: notification or application (or no procedure)
- Also for family members (same rules as for the researcher)

# Rights: Equal treatment

- Equal treatment means equal treatment with citizens of the respective MS in a comparable situation
- Existing Dir.: Full equal treatment
- New Dir.: Some exceptions are possible, in line with other legislation that regulates legal migration



# Rights: Access to job-seeking and setting up businesses

Existing Dir.: -

New Dir.:

- Access to job-seeking or setting-up of a business for a period of 9 months following research
- Based on national authorisation
- No right to get a work permit



# More information

DG Home Affairs – European Commission

[http://ec.europa.eu/dgs/home-affairs/index\\_en.html](http://ec.europa.eu/dgs/home-affairs/index_en.html)

European Migration Network

[www.emn.europa.eu](http://www.emn.europa.eu)

EU Immigration Portal

<http://ec.europa.eu/immigration>

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